



# WISCONSIN REGULATORY DIGEST

Volume 12, No. 1      A Publication of the      MARCH, 2000  
PHARMACY EXAMINING BOARD

## **Governor Thompson Appoints New Board Member**

Michael J. Bettiga, Green Bay, has been appointed by Governor Tommy Thompson. Mr. Bettiga is Senior Vice-President of Store Operations/Retail Health Services @ Shopko Stores.

Mr. Bettiga received his Pharmacy Degree from Ferris State University School of Pharmacy in 1977.

Mr. Bettiga is a member of the National Association of Chain Drug Stores; Pharmacy Affairs Committee as well as a member of the Pharmacy Society of Wisconsin and Vice-President of the Bellin College of Nursing Board of Trustees Executive Committee.

## **Advanced Practice Nurse Prescribers and Physician Assistants**

Advanced Practice Nurse Prescribers (APNPs) and Physician Assistants (PAs) are limited differently by law in what they can write prescriptions for and what must be included on the prescription.

## **THE WISCONSIN PHARMACY EXAMINING BOARD**

### **Members of the Board:**

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### **Administrative Staff:**

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### **Executive Staff:**

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Myra Shelton, Executive Assistant

1. Advanced practice nurse prescribers may only issue prescriptions in an "area of competence, as established by his or her education, training, or experience." The APNP has what is referred to as "independent prescribing authority" meaning that a physician is not required to review and countersign the prescription orders. The prescription must contain the date of issue, the name and address of the patient, the name, address, and business telephone of the APNP, the name and quantity of the drug or device, the directions for use, and the signature of the APNP. If a controlled substance is prescribed, the prescription order must also include the APNP's DEA registration number. Prescribing of schedule II stimulants and anabolic steroids is allowed with the same restrictions as physicians. Pharmacists are expected to review prescriptions of APNP's in the same way as they do of other practitioners for appropriateness within the scope of the prescriber's practice.

2. The practice of PAs is governed under Med 8, and has undergone major revisions, effective January 1, 2000. The following interpretations are based on these new rules. A physician assistant's practice may not exceed the scope of his or her training or experience, and may not exceed the scope of the PA's supervising physician. The PA has "dependent prescribing authority" which means that a PA is only to 'issue' a prescription order in patient situations

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“specified and described in established written guidelines”. The supervising physician must: 1) countersign the order in the medical record, 2) review and countersign within 72 hours after the patient record is prepared by the PA, or 3) review by telephone or by other means, as soon as practicable but within a 72 hour period and countersign in one week the patient record prepared by a PA who practices in an office facility other than the supervising physician’s main office. Previously, the PA was required to indicate the supervising physician on any prescription he or she issued. It is now sufficient to accept a prescription with only the PA’s signature address, telephone number, and if needed, DEA registration number. In addition, it is proper to put the PA’s name on the label without having the supervising physician’s name on the label to facilitate follow-up with the practitioner actually issuing the prescription. Physician assistants are not allowed to delegate a task assigned by a physician to another person. This does not include ‘secretarial’ or ‘communication’ functions, which includes calling in prescriptions to a pharmacy. An agent of the physician assistant may call in a prescription to the pharmacy. Pharmacists are expected to review prescriptions issued by PAs in the same way as they do of other practitioners for appropriateness, but it is the supervising physician’s responsibility to assure the PA is practicing in accordance with the law.

### **Prescription Transfers**

Currently the Board is considering changing rule 7.05 to allow unlimited transfer of non-controlled substance prescriptions. The Phar 7.05(3) requirement that a prescription order be transferred on a one time basis only is directly associated with the federal requirement for controlled substances (21 CFR§1306.25):

“controlled substances listed in Schedules III, IV, and V for the purpose of refill dispensing is permissible between pharmacies on a one time basis only. However, pharmacies electronically sharing a real-time, on-line database may transfer up to the maximum refills permitted by law and the prescriber’s authorization.”

The original intent of the rule in Phar 7.05, which requires the transfer of a prescription be on a one-time basis for all prescriptions, was done to make compliance with the federal law for controlled substances easier by making this rule consistent on all prescriptions, controlled or non-controlled. In the Board’s view, this change would increase the convenience of getting refills for the patient, reduce

extra calls to the physician’s office, reduce the potential for duplication of therapy, and would not jeopardize the safety of the patient. However, controlled substances in Schedule III, IV, and V would continue to be transferable on a one time only basis to comply with federal law. Until a change is adopted, current rules are still in force.

### **Pharmacy Regulation Beyond The PEB**

Under most circumstances pharmacies are governed by the rules set forward by the PEB. However, pharmacists should be aware that pharmacies are governed by rules set forth by other federal and state agencies. An example of this is in the new rule, Phar 15 Sterile Pharmaceuticals, which is anticipated to be effective April 1, 2000. In Phar 15, under the section on physical requirements, the rule “appropriate disposal containers as required by OSHA in 29 CFR PART 1910” is written. Another example is the handling of cytotoxic drugs and chemicals within the pharmacy. The regulations concerned with proper handling, disposal, and clean up are contained in Material Safety Data Sheets, which are the control of OSHA. If a pharmacy were violating one of these standards contained in the MSDS, OSHA would investigate the pharmacy, not the Pharmacy Examining Board.

### **Phar 15 Sterile Pharmaceuticals**

Phar 15 Sterile Pharmaceuticals rule is anticipated to be effective April 1, 2000. These rules apply to pharmacies engaged in the preparation of sterile pharmaceuticals and are based on ASHP, USP, and NABP guidelines for sterile product preparation. Description of physical requirements, reports, quality assurance, labeling, and the requirement of a policy and procedure manual are included in this chapter. These rules will be applied only to those pharmacies preparing sterile products.

### **Phar 7.08 Electronic Transmission of Prescription Orders**

Phar 7.08 has been created in response to amendments to Chapter 450 of the State Statutes that specifically authorized the electronic transmission of prescription orders from prescribers to pharmacies. The intent of the Phar 7.08 is to assure the appropriate use of electronic transmission systems in conveying prescription orders, and to provide guidance to the profession in adopting procedures and systems assuring the validity, accuracy and security of prescription orders received electronically from prescribers. The following rules became effective December 1, 1999.

### **Phar 7.08 Prescription orders transmitted electronically.**

(1) Except as provided in s. 453.068 (1) (c) 4., Stats., and as otherwise prohibited by law,

prescription orders may be accepted and dispensed if they have been transmitted electronically from a practitioner or his or her designated agent to a pharmacy via computer modem or other similar electronic device. Prescription orders transmitted by facsimile machine are not considered electronic prescription orders; but rather, written prescription orders. Note: Prescription orders for schedule II controlled substances may not be transmitted electronically except as emergency orders, subject to the same requirements for oral emergency orders for schedule II controlled substances. See s. 961.38 (1r) and (2), Stats., and s. Phar 8.09.

(2) A pharmacist may dispense a prescription pursuant to a prescription order transmitted electronically, if the pharmacist assures the prescription order does all of the following:

(a) Was sent only to the pharmacy of the patient's choice and only at the option of the patient, with no intervening person or third party having access to the prescription order other than to forward it to the pharmacy.

(b) Identifies the individual sender's name and telephone number for oral confirmation, the time and date of transmission, and the pharmacy intended to receive the transmission.

(c) Is designated "electronically transmitted prescription", or with similar words or abbreviations to that effect.

(d) Contains all other information that is required in a prescription order.

(3) The prescribing practitioner's electronic signature, or other secure method of validation shall be provided with a prescription order electronically transmitted via computer modem or other similar electronic device.

(4) Any visual or electronic document received in connection with an electronically transmitted prescription order shall be accessible only within the professional service area of the pharmacy to protect patient confidentiality and assure security.

(5) A pharmacist who receives a prescription order electronically shall ensure the security, integrity and confidentiality of the prescription order and any information contained in the order. To maintain the confidentiality of patient records, the electronic system shall have adequate security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of patient records. Once the prescription has been dispensed, any alterations in prescription order drug data shall be documented including the identification of the pharmacist responsible for the alteration.

(6) Access to the electronic mail system for the receipt of prescription orders electronically may only be acquired by use of a password or passwords, known only to individuals authorized to access the system.

(7) A pharmacist may not use any electronic device to circumvent his or her responsibilities with regard to documenting, authenticating and verifying prescription orders or in order to circumvent other pharmacy laws.

History: Cr. Register, November, 1999, No. 527, eff. 12-1-99.

### **Renewed vs. Expired License**

Under s. 450.09(1) it states, "Only a holder of an unexpired license may engage in his or her licensed activity." The credential renewal date for pharmacists is on June 1 of every even-numbered year. Currently, starting with the June 1, 2000 renewal date, a pharmacist is required to pay a fee of \$75 on or before June 1. In addition, the pharmacist must sign a statement on the renewal application stating that he or she has completed at least 30 hours of continuing education programs by an ACPE approved provider within the 2-year period immediately preceding the date of renewal. Pharmacists are required to maintain documentation of completion of these continuing education programs. If a pharmacist decides not to complete this continuing education requirement and thus not renew their license registration, they may not practice pharmacy in this state. The individual has NOT lost their license in Wisconsin, but is not able to practice until the license is renewed pursuant to the fees and continuing education requirements if done within 5 years from the last renewal date. If the license is not renewed within 5 years after the last renewal date, the pharmacist will be required to successfully complete examinations or educational requirements at the discretion of the Board. The continuing education requirement does not apply to an applicant who has a license that expires on the first renewal date after the date on which the board initially granted the license. The fee for a late renewal is an additional \$25 above the standard fee for renewal.

### **Compliance Verification**

If the Pharmacy Examining Board disciplines a pharmacist or pharmacy, it will verify compliance with the law within one year following the date of the Board's action. An example of this would be pharmacist who is reprimanded for not counseling. Within one year of the PEB's reprimand, the Board will have the pharmacist observed in his or her practice setting to assure compliance with the consultation law. The Board is interested in assuring that disciplined pharmacists have made appropriate changes in their practice to allow for compliance with the law.

### **Did You Know ...**

Statute 440.11 requires a recipient of a credential who changes his or her name or moves from the last address provided to the department to notify the department of the change in writing within 30 days. Failure to comply shall be subject to a forfeiture of \$50.

The September Regulatory Digest stated that the equivalency ratio for licensees enrolled for credit in post graduate pharmacy education was one credit to count the same as 10 credits of coursework offered by an ACPE approved provider. The correct equivalency ratio is 15 credits for each post graduate pharmacy education credit.

### **Wisconsin Statutes and Administrative Code**

There have been substantial changes and additions to the Wisconsin Statutes and Administrative Code within the last year. A current Wisconsin Statutes and Administrative Code Relating to the Practice of Pharmacy (December, 1999) can be purchased by sending your request and a check in the amount of \$5.28 to the Pharmacy Examining Board, P.O. Box 8935, Madison, WI 53708-8935.

### **Schedule II Controlled Substance Prescription Orders – Missing Information**

The Board has been asked whether and how a pharmacist may supply missing strength information in a written prescription order for Percocet.

The Board's rules specifically permit a pharmacist to supply the missing address of a patient and the registration number of the practitioner from a Schedule II controlled substance prescription order. The only other information that may be added to clarify a prescription order relates to dose and frequency of use. Since strength is a component of dose, a pharmacist may clarify the required dose by supplying the missing strength on a prescription order for Percocet if the strength is verifiable and retrievable from information maintained by the pharmacist or is obtained through consultation with the practitioner.

### **Expanding Credential Verification Services**

The Department of Regulation and Licensing has added a feature at the department's web site (<http://www.drl.state.wi.us>) which will allow employers and members of the public to verify the status of professional credentials held by nearly 280,000 individuals.

Once the department's web site is accessed, users may click on "Credential Holder Query" and they will gain access to the department's credential data base where they can verify whether an individual holds a current license in any of the professions regulated by the department.

"Giving employers and consumers the ability to directly access this information on the Internet makes it easier for the public to verify whether a person is entitled to practice a profession in Wisconsin," Secretary Marlene Cummings said. "It will also be an effective deterrent to efforts by any individuals to successfully misrepresent their

credential status since anyone with a computer and internet access can quickly verify whether the credential is actually held by that individual," Cummings added.

### **Discipline**

#### **PHARMACY CORP OF AMERICA GLENDALE WI**

**COSTS/FORFEITURES**  
Dispensing errors, including a number of incidents where Ultram was dispensed instead of Risperdal or vice versa. Other errors involved incorrect dosage amounts and incorrect medications. The pharmacy changed their policy regarding entry of prescriptions for half-tablets to clarify the dosage instructions. Effective 9/14/99. Sec. 450.10(1)(a)6., Stats. Phar 7.01(1)(c),(d), 10.03(2) Case #LS9909141PHM

#### **LAWRENCE MARKEY, R.PH. FRANKLIN WI**

**REPRIMAND/COSTS/FORFEITURE**  
Unlicensed person transferred prescriptions to patients without consultation. Did not provide consultation to a patient whose prescription had been partially filled. Pharmacy license was not displayed in the view of the public. Effective 10/13/99. Phar 7.01(1)(e),(em), 10.03(2). Case #LS9910133PHM

#### **JEROME D MIDANEK, R.PH. ROUND LAKE IL**

**REPRIMAND/LIMITED/COSTS**  
Purchased drug samples from an undercover agent. An audit showed the pharmacy dispensed more drugs than it purchased. Respondent pled guilty to one count of illegal purchase of drug samples. Effective 12/7/99. Sec. 450.10(1)(a)2., Stats. Case #LS9912073PHM

**MICHAEL S. IVEY, R.PH.  
MARINETTE WI** **SUSPEND/LIMITED/COSTS**  
On multiple occasions in 1998 and 1999, provided hydrocodone, a Schedule III controlled substance, to patients without orders from authorized prescribers or other authorities. The hydrocodone provided to one patient was removed from the stock of the pharmacy without permission and it was not paid for by respondent or the patient. License suspended for 90 days effective 12/1/99 with the limitation respondent shall not be a managing pharmacist. Secs. 450.10(1)(a)2.,6., 450.11(1),(4), 961.41(1), Stats. Phar 8.02(1),(2), 8.05(2), 10.03(1),(2),(5) Case #LS9905141PHM

**JOHN E KURTH, R.PH.  
RICHMOND TX** **SUSPENDED/FORFEITURES**  
Used fraudulent prescription orders to dispense controlled substances for his personal use. The doctor listed as the prescribing physician did not authorize the prescription orders. In November, 1998, the Texas board suspended respondent's license for five years. Effective 8/11/99. Sec. 450.11(1),(a)2., Stats. Phar 10.03(1),(5),(17) Case #LS9908111PHM

**PAUL J. MORNARD, R.PH.  
GREEN BAY WI** **SUSPEND ONE YEAR/LIMITED/COSTS**  
Dispensed prescription drugs and Schedule II and III controlled substances without prescriptions. Failed

to keep records of the dispensed controlled substances. Supplied free or unprescribed controlled substances in exchange for sexual contact. Billed a third party payor for a refill. Knew an employee was stealing controlled substances from the pharmacy. Did not report the theft to the board. Hardcopy records of Schedule III-V prescriptions were missing. Has not practiced pharmacy in any manner since 9/1/99. Respondent's license is permanently limited prohibiting him from owning an interest in any pharmacy and acting as a managing pharmacist. Effective 9/2/99. Secs. 450.10, 450.11, Stats. Phar 8.01(2),(5), 8.02(1), 10.02(3)(f), 8.05(1), (2), 10.03(1),(2),(5), 8.04. Case #LS9906041PHM

HAROLD E MCEUEN, R.PH.  
ONALASKA WI

**REPRIMAND/FORFEITURES/COSTS**

A patient picked up new prescriptions without consultation from the pharmacist. Effective 12/7/99. Phar 7.01(1)(e),(3m) Case #LS9912072PHM

ANDREW P RICE, R.PH.  
NEW RICHMOND WI

**SUSPENDED/COSTS/FORFEITURES**

Dispensed Fiorinal w/codeine, a schedule III controlled substance, without a valid prescription order and without a physician's authorization. Diverted controlled substances for personal use. Effective 11/9/99. Secs. 450.10(1)(a)2., 3., 6., 450.11(1),(7)(a)(h), 961.43(1)(a), Stats. Phar 8.05(2), 10.03(1),(2) Case #LS9911092PHM

GORDON M GWOSDOW, R.PH.  
APPLETON WI **REPRIMAND/LIMITED/COSTS**  
Hospitalized for colon cancer surgery. Altered two prescription orders to increase refills. Effective 12/7/99. Sec. 450.11(7)(a),(c),(e), Stats. Phar 10.03(1) Case #LS9912071PHM

JAN R VEENEDAAL, R.PH.  
MEQUON WI **REPRIMAND/FORFEITURES**  
On two occasions, unlicensed person transferred a refill prescription without consultation from a pharmacist. Admitted it was the pharmacy's routine practice for unlicensed staff to transfer prescriptions without consultation. Effective 10/13/99 Phar 7.01(1)(e),(em) Case #LS9910135PHM

MICHAEL O PISTINER, R.PH.  
MEQUON WI **REPRIMAND/FORFEITURES**  
An unlicensed person transferred a refill prescription without consultation from a pharmacist. Effective 11/9/99. Phar 7.01(1)(e),(em) Case #LS9911091PHM

TRACY L RINGE, RPH  
SHOREWOOD WI **REPRIMAND/FORFEITURES**  
An unlicensed person transferred a refill prescription without consultation from a pharmacist. Effective 10/13/99. Phar 7.01(1)(e),(em) Case #LS9910134PHM

RICHARD T HOUGE, RPH  
WILLIAMS BAY WI  
**REPRIMAND/FORFEITURES/COSTS**  
Dispensed mislabeled prescription bottle - correct medication and dosage, but wrong name and patient

information. Unlicensed person transferred a prescription without consultation. Effective 10/13/99. Phar 7.01(1)(d),(e),(3m) Case #LS9910132PHM

**Telephone Directory**

Automated phone system for the Health Professions:  
(608) 266-2811

- Press 1 **Request Application**
- Press 2 **Status of a Pending Application**
- Press 3 **Complaint Filing Information**
- Press 4 **Verifying Current Status of a Credential Holder**
- Press 5 **Name or Address Change**  
**Need a Duplicate License**  
**Request a Letter of Good Standing**
- Press 6 **Repeat Menu Choices**

**Fax Number**  
(608) 261-7083

**Verifications**

All requests for verification of license status must be in writing. There is no charge for this service.

**Verifications On-Line**

On-Line verifications are now available from the Department of Regulation and Licensing. They are JACCO approved and you are able to print directly from our website. Please visit our site at:  
<http://www.drl.state.wi.us/>

**Endorsements**

Requests for endorsements to other states must be in writing. The cost is \$10. Please make check or money order payable to the Department of Regulation and Licensing.

**Digest on Web Site**

March 1998, September 1998, April 1999, September 1999

**Visit the Department's Web Site**

<http://www.drl.state.wi.us/>  
Send comments to [dorl@drl.state.wi.us](mailto:dorl@drl.state.wi.us)

**2000 Board Meeting Dates**

March 15, April 11, May 17, June 14, July 11, August 9, September 12, October 11, November 8, December 12

Department of Regulation and Licensing  
Pharmacy Examining Board  
P.O. Box 8935  
Madison, WI 53708-8935

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# REGULATORY DIGEST

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## Wisconsin Statutes and Code

Copies of the Pharmacy Examining Board Statutes and Administrative Code can be ordered from the Department. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated December, 1999.

## Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

**WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.**

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